



EUROPEAN CENTRAL BANK

OPINION OF THE EUROPEAN CENTRAL BANK
of 20 February 2006
at the request of Magyar Nemzeti Bank
on a draft regulation on the general terms and conditions and internal regulations of clearing
houses for credit institutions
(CON/2006/7)

1. On 6 December 2005 the European Central Bank (ECB) received a request from Magyar Nemzeti Bank for an opinion on a draft regulation on the general terms and conditions and internal regulations of clearing houses for credit institutions (hereinafter the 'draft regulation').
2. The ECB's competence to deliver an opinion is based on the second, third, fifth and sixth indents of Article 2(1) of Council Decision 98/415/EC of 29 June 1998 on the consultation of the European Central Bank by national authorities regarding draft legislative provisions¹, as the draft regulation contains provisions concerning means of payment, Magyar Nemzeti Bank, payment and settlement systems and rules that materially influence the stability of financial institutions and markets. In accordance with the first sentence of Article 17.5 of the Rules of Procedure of the European Central Bank, the Governing Council has adopted this opinion.
3. The draft regulation sets out requirements for the general terms and conditions and internal regulations of clearing houses for credit institutions that may include preconditions to performing such activities.
4. The ECB welcomes such rules as they are essential to Magyar Nemzeti Bank's oversight function, particularly as they take into account recent developments.
5. In the ECB's view the draft regulation should specify that the list of issues to be regulated in the terms and conditions of a clearing house for credit institutions is not exhaustive and constitutes a list of minimum requirements, therefore making it possible to include additional items in the clearing houses' terms and conditions.
6. Article 20 of the draft regulation on fees requires transparency and equal treatment of participants. However, this transparency requirement would not apply to entities that are considering participation and have a strong interest in applicable fees when deciding whether to participate. Hence, it would be advisable to extend Article 20 to entities considering becoming participants, direct submitters or settlement agents.

¹ OJ L 189, 3.7.1998, p. 42.

7. This opinion will be published on the ECB's website.

Done at Frankfurt am Main, 20 February 2006.

[signed]

The President of the ECB

Jean-Claude TRICHET